

accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-15-63. Partnership and individual fined \$250 each.

28716. Egg noodles. (F.D.C. No. 46952. S. Nos. 2-370/1 T.)

QUANTITY: 2,601 cases, 4 5-lb. boxes each, at Forest Park, Ga.

SHIPPED: 2-1-61, from Brooklyn, N.Y., by Paramount Macaroni Manufacturing Co., Inc.

LABEL IN PART: (Box) "Noodles, Egg \* \* \* Paramount Macaroni Mfg. Co. Inc., Brooklyn, N.Y."

LIBELED: 2-1-62, N. Dist. Ga.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, egg or egg yolk solids, had been in whole or in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

DISPOSITION: 3-29-62. Default—the article was ordered destroyed since examination subsequent to seizure disclosed that it contained insects.

28717. Egg noodles. (F.D.C. No. 46956. S. No. 43-346 T.)

QUANTITY: 3,928 cases, 4 5-lb. boxes each, at New Cumberland, Pa.

SHIPPED: Between 5-24-61 and 6-21-61, from Brooklyn, N.Y., by Paramount Macaroni Manufacturing Co., Inc.

LABEL IN PART: (Box) "Noodles, Egg \* \* \* Paramount Macaroni Mfg. Co. Inc., Brooklyn, New York."

RESULTS OF INVESTIGATION: Examination showed that the article failed to conform to the definition and standard of identity for egg noodles in that the total solids of the article contained less than 5.5 percent by weight of solids of egg or egg yolk.

LIBELED: 2-1-62, M. Dist. Pa.

CHARGE: 402(b)(1)—when shipped, the valuable constituent, egg or egg yolk solids, had been in whole or in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles.

DISPOSITION: 5-19-62. Consent—delivered to Government for use as macaroni and not as egg noodles.

#### MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28718. Wheat. (Inj. No. 431.)

COMPLAINT FOR INJUNCTION FILED: 5-4-62, Dist. Wyo., against Tri-County Grain Co., a corporation, Chugwater and Slater, Wyo., and Harold Hellbaum, secretary-treasurer.

CHARGE: The complaint alleged that the defendants were engaged in operating a grain storage facility at Chugwater, Wyo., consisting of an elevator and including 8 steel tanks and 2 corrugated steel buildings, and a grain storage

facility at Slater, Wyo., consisting of an elevator and including 2 quonset buildings, designated as north and south quonset, a flat storage wooden building, and a circular steel tank, each for the storage and distribution of wheat for human consumption; and that the defendants were introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, wheat which was adulterated within the meaning of 402(a) (3) and (4), by reason of the presence of rodent excreta pellets and insects in the wheat and by reason of being held under insanitary conditions.

The complaint alleged further that the insanitary conditions resulted from and consisted of:

At Chugwater—in tank No. 1, many mouse and 2 rat excreta pellets on the surface of the wheat, and 3 pink kernels of wheat; in the elevator boot pit, mouse excreta pellets, insect-damaged kernels of wheat, approximately 60 whole insects and insect fragments in 100 grams of wheat, and 2 dead mice on the floor of the pit; and in the tunnel, 1 live mouse, and 500-600 mouse excreta pellets concentrated along the walls of the tunnel.

At Slater—in the north quonset building, insect-damaged wheat on the surface and to a depth of 3½ feet, mouse excreta pellets, live and dead grain beetles, and warm wheat below the surface.

It was alleged further that the defendants were well aware that their activities were in violation of the Act; that inspections of the defendants' grain storage facilities at Chugwater, Wyo., and at Slater, Wyo., were made on 2-15-62, 2-16-62, 3-15-62, and 3-22-62, by inspectors of the Food and Drug Administration; that at each inspection evidence of adulteration was readily visible; that on 3-22-62, inspectors found that some wheat had been skimmed from the surface of the wheat in the north quonset building of the defendants' storage facility at Slater, Wyo.; that some of that wheat would be sold in interstate commerce; and that the defendants had been aware from the first inspection that wheat for human consumption was being stored under insanitary conditions in both grain storage facilities.

**DISPOSITION:** On 5-4-62, the defendants having consented, the court entered a decree of permanent injunction enjoining the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food held at the defendants' grain storage facilities at Chugwater, Wyo., and at Slater, Wyo., unless and until the areas of the facility maintained at Chugwater, Wyo., which were designated as tank No. 1, the elevator boot pit, and tunnel and the area designated as the north quonset building at the facility maintained at Slater, Wyo., were thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, to wit, unless and until all rodent and insect filth was removed from those areas; all rodent and insect infestation in and about those areas was eliminated; the means of ingress and egress of the areas by rodents and insects were closed; and any similar insanitary conditions which might result in wheat for human consumption and any similar article of food being contaminated with filth while held at those grain storage facilities were eliminated; and all of the wheat which was on hand at the defendants' grain storage facilities at Chugwater, Wyo., and at Slater, Wyo., was destroyed, denatured for use as animal feed, or cleaned, segregated and otherwise re-

conditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare and thus brought into compliance with the provisions of the Act.

**28719. Wheat (2 seizure actions).** (F.D.C. Nos. 47270, 47278. S. Nos. 34-700 T, 63-442 T.)

**QUANTITY:** 84,960 lbs. at Minneapolis and St. Paul, Minn.

**SHIPPED:** 3-23-62, from Wilton, N. Dak., by Wilton Elevator Co.

**LIBELED:** 4-5-62, Dist. Minn.

**CHARGE:** 402(a)(3)—contained rodent excreta pellets when shipped.

**DISPOSITION:** 4-16-62 and 4-19-62. Consent—claimed by Wilton Elevator Co. Segregated; 34,020 lbs. destroyed.

**28720. Wheat.** (F.D.C. No. 46680. S. No. 17-440 R.)

**INFORMATION FILED:** 2-25-62, Dist. Idaho, against Colorado Milling & Elevator Co., a corporation, t/a Midland Elevators, American Falls, Idaho.

**SHIPPED:** 4-5-61, from Idaho to Colorado.

**CHARGE:** 402(a)(3)—contained mouse excreta pellets; and 402(a)(4)—held under insanitary conditions.

**PLEA:** Nolo contendere.

**DISPOSITION:** 6-29-62. \$100 fine.

**28721. Wheat.** (F.D.C. No. 47800. S. No. 70-696 T.)

**QUANTITY:** 40,000 lbs. at Minneapolis, Minn.

**SHIPPED:** 6-30-62, from Richardton, N. Dak., by Farmers Union Elevator Co.

**LIBELED:** 7-13-62, Dist. Minn.

**CHARGE:** 402(a)(3)—contained rodent excreta pellets when shipped.

**DISPOSITION:** 7-27-62. Consent—claimed by Richardton Farmers Union Elevator Co., and denatured.

**28722. Wheat.** (F.D.C. No. 48483. S. No. 52-704 V.)

**QUANTITY:** 120,450 lbs. at Seattle, Wash., in possession of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

**SHIPPED:** 11-20-62, from Spring Hill, Mont.

**RESULTS OF INVESTIGATION:** Examination showed that the wheat contained rodent excreta, and that it was in a railroad car which was infested with live mice.

**LIBELED:** 12-11-62, W. Dist. Wash.

**CHARGE:** 402(a)(3)—contained rodent excreta; and 402(a)(4)—held under insanitary conditions while in interstate commerce.

**DISPOSITION:** 12-14-62. Consent—claimed by Cargill, Inc., Minneapolis, Minn., and denatured for use as animal feed.

**28723. Wheat cereal, unshelled peanuts, and mixed nuts.** (F.D.C. No. 47359. S. Nos. 21-704/6 T.)

**INFORMATION FILED:** 8-9-62, Dist. Utah, against Utah Wholesale Grocery Co., a corporation, Salt Lake City, Utah, and Alfred B. Smith, secretary-treasurer and general manager.